United Nations A/HRC/36/L.11

General Assembly

Distr.: Limited
22 September 2017

Original: English

Human Rights Council
Thirty-sixth session
11–29 September 2017
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Albania, Andorra,* Argentina,* Armenia,* Australia,* Austria,* Belgium, Bosnia and Herzegovina,* Bulgaria,* Canada,* Chile,* Colombia,* Croatia, Cyprus,* Denmark,* El Salvador, Finland,* France,* Germany, Greece,* Honduras,* Hungary, Iceland*, Ireland,* Italy,* Latvia, Luxembourg,* Maldives,* Mexico,* Montenegro,* Morocco,* Netherlands, Norway,* Panama, Peru,* Poland,* Portugal, Serbia,* Slovakia,* Slovenia, Spain,* Sweden,* Switzerland, the former Yugoslav Republic of Macedonia,* Tunisia, Ukraine,* United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay:* draft resolution

36/... Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Vienna Declaration and Programme of Action, the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 8 June 1977, and other relevant international human rights law and international humanitarian law instruments,

Reaffirming also the significance of the Convention on the Prevention and Punishment of the Crime of Genocide, and recalling in this regard the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity as effective international instruments for the prevention and punishment of genocide, war crimes and crimes against humanity,

Recalling the International Convention for the Protection of All Persons from Enforced Disappearance, adopted by the General Assembly in its resolution 61/177 of 20

* State not a member of the Human Rights Council.

December 2006, in which article 24, paragraph 2 sets out the right of victims to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person, and sets forth State party obligations to take appropriate measures in this regard, and the preamble reaffirms the right to freedom to seek, receive and impart information to that end,

Recalling also the set of principles for the protection and promotion of human rights through action to combat impunity,[1] and the updated version of those principles,[2]

Recalling further General Assembly resolution 60/147 of 16 December 2005, in which the Assembly adopted the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law,

Recalling Commission on Human Rights resolutions 2005/70 of 20 April 2005, on human rights and transitional justice, 2005/81 of 21 April 2005, on impunity, and 2005/66 of 20 April 2005, on the right to the truth, Human Rights Council resolutions 9/10 of 24 September 2008, 12/11 of 1 October 2009, 21/15 of 27 September 2012 and 33/19 of 30 September 2016 on human rights and transitional justice, 9/11 of 18 September 2008, 12/12 of 1 October 2009 and 21/7 of 27 September 2012, on the right to the truth, 10/26 of 27 March 2009 and 15/5 of 29 September 2010, on forensic genetics and human rights, Council decisions 2/105 of 27 November 2006, on the right to the truth, and 4/102 of 23 March 2007, on transitional justice, and General Assembly resolution 68/165 of 18 December 2013, on the right to the truth,

Reaffirming Human Rights Council resolution 18/7 of 29 September 2011, in which the Council decided to establish the mandate of Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence,

Recalling the report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies[3] and his 2011 follow-up report on the same topic,[4] including the relevant recommendations contained therein, as well as his reports issued in 2006,[5] 2012,[6] 2013[7] and 2014[8] outlining a programme of action to enhance the effectiveness of the support provided by the United Nations system for the promotion of the rule of law in conflict and post-conflict situations,

Acknowledging that the fight against impunity and the implementation of transitional justice processes, including the promotion of truth, justice, reparation and guarantees of non-recurrence, can prevent the recurrence of gross violations of human rights and serious violations of international humanitarian law,

Recalling General Assembly resolution 70/262 of 27 April 2016 on the review of the United Nations peacebuilding architecture, and Security Council resolution 2282 (2016) of 27 April 2016, in which the Assembly and the Council, inter alia, stressed that a comprehensive approach to transitional justice, including the promotion of healing and reconciliation, a professional, accountable and effective security sector, including through its reform, and inclusive and effective demobilization, disarmament and reintegration

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[1] E/CN.4/Sub.2/1997/20/Rev.1, annex II.

[2] E/CN.4/2005/102/Add.1.

[3] S/2004/616.

[4] S/2011/634.

[5] A/61/636-S/2006/980 and Corr.1.

[6] A/66/749.

[7] S/2013/341.

[8] A/68/213/Add.1 and A/69/181.

programmes, including the transition from demobilization and disarmament to reintegration, are critical to the consolidation of peace and stability, promoting poverty reduction, the rule of law, access to justice and good governance, further extending legitimate State authority and preventing countries from lapsing or relapsing into conflict,

Noting with appreciation the active engagement of the United Nations, including the Office of the United Nations High Commissioner for Human Rights, in assisting States to address gross human rights violations and serious violations of international humanitarian law, in cooperation with and at the request of States,

Recalling its resolutions 5/1, on institution-building of the Human Rights Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge his or her duties in accordance with those resolutions and the annexes thereto,

Recognizing that the Special Rapporteur on the promotion of truth, justice, reparations and guarantees of non-recurrence will continue to deal with situations in which there have been gross violations of human rights and serious violations of international humanitarian law,

Underlining the fact that, when designing and implementing strategies, policies and measures to address gross human rights violations and serious violations of international humanitarian law, the specific context of each situation must be taken into account with a view to preventing the recurrence of crises and future violations of human rights, to ensure social cohesion, nation-building, ownership and inclusiveness at the national and local levels, and to promote reconciliation,

Emphasizing the importance of a comprehensive approach incorporating the full range of judicial and non-judicial measures, including, among others, individual prosecutions, reparations, truth-seeking, institutional reform, vetting of public employees and officials, memorialization initiatives and processes to achieve shared narratives or an appropriately conceived combination thereof, in order to, inter alia, ensure accountability, serve justice, provide remedies to victims, promote healing and reconciliation, establish independent oversight of the security system and restore confidence in the institutions of the State and promote the rule of law in accordance with international human rights law,

1. *Takes note with appreciation* of the reports of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence submitted to the Human Rights Council at its thirtieth,[9] thirty-fourth[10] and thirty-sixth[11] sessions, as well as those submitted to the General Assembly at its sixty-ninth,[12] seventieth[13] and seventy-first[14] sessions, and calls upon States to take due consideration of the recommendations contained therein when designing and implementing strategies, policies and measures to address gross human rights violations and serious violations of international humanitarian law within their national context;

2. *Welcomes* the work undertaken by the Special Rapporteur in the implementation of his mandate, the comprehensive, transparent and inclusive consultations conducted with relevant actors from all regions for his thematic reports, and the undertaking of country visits;

[9] A/HRC/30/42 and Add.1.
[10] A/HRC/34/62 and Add.1.
[11] A/HRC/36/50 and Add.1.
[12] See A/69/518.
[13] See A/70/438.
[14] See A/71/567.

3. *Also welcomes* the cooperation of those States that have received the Special Rapporteur in their country, those that have accepted requests for visits by the Special Rapporteur and those that have extended invitations to the Special Rapporteur to visit their country, as well as those that have responded to his requests for information;

4. *Decides* to extend for a period of three years the mandate of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, whose tasks will include:

(*a*) To contribute to and, where applicable, facilitate, upon request, the provision of technical assistance or advisory services on the issues pertaining to the mandate;

(*b*) To gather relevant information on national situations, including on normative frameworks, national practices and experiences, such as truth and reconciliation commissions and other mechanisms, relating to the promotion of truth, justice, reparation and guarantees of non-recurrence in addressing gross violations of human rights and serious violations of international humanitarian law, and to study trends, developments and challenges and to make recommendations thereon;

(*c*) To identify, exchange and promote good practices and lessons learned, and to identify potential additional elements with a view to recommend ways and means to improve and strengthen the promotion of truth, justice, reparation and guarantees of non-recurrence;

(*d*) To develop a regular dialogue and cooperate with, inter alia, Governments, international and regional organizations, national human rights institutions and non-governmental organizations, and relevant United Nations bodies and mechanisms;

(*e*) To make recommendations concerning, inter alia, judicial and non-judicial measures when designing and implementing strategies, policies and measures for addressing gross violations of human rights and serious violations of international humanitarian law;

(*f*) To explore further the contribution of transitional justice to the prevention of gross violations of human rights and serious violations of international humanitarian law, including genocide, war crimes, ethnic cleansing and crimes against humanity, and their recurrence;

(*g*) To conduct country visits and to respond promptly to invitations from States;

(*h*) To participate in and contribute to relevant international conferences and events with the aim of promoting a systematic and coherent approach on issues pertaining to the mandate;

(*i*) To raise awareness concerning the value of a systematic and coherent approach when dealing with gross violations of human rights and serious violations of international humanitarian law, and to make recommendations in this regard;

(*j*) To integrate a gender perspective throughout the work of the mandate;

(*k*) To integrate a victim-centred approach throughout the work of the mandate;

(*l*) To work in close coordination, while avoiding unnecessary duplication, with the Office of the United Nations High Commissioner for Human Rights, other relevant entities of the United Nations Secretariat, relevant United Nations agencies, funds and programmes, intergovernmental and non-governmental organizations, other special procedures of the Human Rights Council and other relevant actors;

5. *Urges* all States to cooperate with and assist the Special Rapporteur so that his mandate can be carried out effectively, including by responding favourably and rapidly

to cooperate fully with the Special Rapporteur, and to provide him in a timely manner with all the necessary information requested by him;

6. *Requests* the Special Rapporteur to continue to report annually to the Human Rights Council and the General Assembly;

7. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Special Rapporteur with all the human, technical and financial assistance necessary for the effective fulfilment of his mandate;

8. *Decides* to continue its consideration of this matter under the same agenda item and in accordance with its programme of work.